

## REMARKS

Prior to this amendment, Claims 1, 4-25 and 35 were pending in the application. By this amendment, no claims are amended or canceled. Hence, Claims 1, 4-25 and 35 are pending in the application.

## SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 1, 4, 5, 7-9, 11-25 and 35 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Besaw et al. (“*Besaw* ‘789”); U.S. Pat. No. 5,276,789) in view of Besaw et al. (“*Besaw* ‘897”); U.S. Pat. Appl. Pub. No. 2002/0158897); and Claims 6, 10 and 35 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Besaw* ‘789 in view of *Besaw* ‘897 and further in view of Nielsen (“*Nielsen*”; U.S. Patent No. 5,937,417).

## REJECTIONS BASED ON PRIOR ART

### Declaration under 37 C.F.R. §1.131

Filed herewith by Applicant is a Declaration under 37 C.F.R. §1.131 (“the Declaration”). The Declaration is annexed with the following.

(A) Exhibit 1, a true and correct redacted copy of a document entitled “TopoML”, which describes a purpose and functionality of the “TopoML” language, and refers to a functioning computer program application, the TopoML application, that embodies the subject invention described and claimed in the above-referenced application and which Applicant implemented with the “TopoML” language prior to April 30, 2001;

(B) Exhibit 2, a true and correct redacted copy of the contents of a document entitled “TopoML.dtd”, which is an XML Document Type Definition (DTD) that describes the elements in a “TopoML” document and represents the interrelationship

between the attributes and elements of a “TopoML” document. The CGI program of the TopoML application (referred to in Section 6 of the affidavit) operates to retrieve from a data source and to convert topology information to a TopoML markup language document that conforms to the TopoML document type definition represented in the “TopoML.dtd” document, and this CGI program embodies part of the subject invention described and claimed in the application, the true date of which is prior to April 30, 2001;

(C) Exhibit 3, a true and correct redacted copy of the contents of a document entitled “TopoML.xsd”, which is an XML Schema Definition (XSD) which, similar the “TopoML.dtd” document of Exhibit 2, describes the elements in a “TopoML” document and represents the interrelationship between the attributes and elements of a “TopoML” document. The CGI program of the TopoML application (referred to in Section 6 of the affidavit) operates to retrieve from a data source and to convert topology information to a TopoML markup language document that conforms to the TopoML schema represented in the “TopoML.xsd” document, and this CGI program embodies part of the subject invention described and claimed in the application, the true date of which is prior to April 30, 2001;

(D) Exhibit 4, a true and correct redacted copy of the contents of a document entitled “Hierarchy For All Packages”, which contains a list of classes and a list of interfaces associated with the TopoML language and application. The applet program of the TopoML application (referred to in Section 6 of the affidavit) was implemented based on the classes and interfaces listed in the “Hierarchy For All Packages” document, and this applet program embodies part of the subject invention described and claimed in the application, the true date of which is prior to April 30, 2001;

(E) Exhibit 5, a true and correct redacted copy of the contents of a document entitled a true and correct redacted copy of a portion of the contents of a document entitled “Index”, which contains an alphabetic list of classes, interfaces, constructors, methods and fields associated with “TopoML”. The applet program of the TopoML application (referred to in Section 6 of the affidavit) was implemented utilizing at least some of the classes, interfaces, constructors, methods and fields described in the “Index” document, and this applet program embodies part of the subject invention described and claimed in the application, the true date of which is prior to April 30, 2001;

(F) Exhibit 6, a true and correct redacted copy of the contents of an electronic mail from Cassio Goldschmidt (the Applicant and Affiant), providing the status of the “AD topology application” (an implementation of the TopoML application) project. This document indicates that the application build was completed over the TopoML language constructs, and that the application was executable from a browser. This document further indicates that a demonstration of the functionality of the application was performed prior to the date of this document, which prior to April 30, 2001; and

(G) Exhibit 7, a true and correct redacted copy of the contents of an electronic mail from Cassio Goldschmidt (the Applicant and Affiant), inviting internal developer colleagues to assist in testing the “AD application” (an implementation of the TopoML application). This document indicates that the application was “currently up and running” on a production server prior to the date of this document, which prior to April 30, 2001.

Exhibits 1 through 7 are submitted as probative of a reduction to practice of the invention prior to April 30, 2001, which is the filing date of the patent application

09/843,887 that was published as US 2002/0158897 A1 on October 31, 2002 (*Besaw* '897). Hence, the present invention antedates the *Besaw* '897 reference. Therefore, the *Besaw* '897 reference should be removed from, and not relied upon for, any grounds for rejection of the present claims.

Rejections under 35 U.S.C. § 103(a)

(I) Claims 1, 4, 5, 7-9, 11-25 and 35

Claims 1, 4, 5, 7-9, 11-25 and 35 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Besaw* '789 in view of *Besaw* '897. This rejection is traversed.

There are several features of Claim 1 that are not taught, suggested or motivated by either *Besaw* '789 or *Besaw* '897 ("the *Besaw* references"). Therefore, a combination of the *Besaw* references would not make Claim 1 obvious to one skilled in the art at the time of the invention.

First, the Office Action did not address the Claim 1 feature of "converting first topology information into a markup language document." Neither *Besaw* '789 nor *Besaw* '897 teaches or suggests this feature. Therefore, these references do not support a *prima facie* case of obviousness with respect to Claim 1. Applicant respectfully requests reconsideration based on the foregoing remarks.

Next, as discussed in the previous response, the sequence in which steps are recited in Claim 1 is important and should not be disregarded. Claim 1 recites that first topology information is retrieved from a data source, converted, and a graph of a first portion of the topology is displayed based on the converted first topology information.

Then, after causing display of the graph of the first portion of the topology, second

topology information is retrieved from the data source and a graph of (a) at least a portion of the first portion and (c) a second portion of the topology based on the second topology information, is displayed, without again retrieving the first topology information.

The Besaw references cannot be combined to make obvious the method steps recited in Claim 1, in the order in which the steps are performed in Claim 1. *Besaw '789* describes retrieving all of the topology information (e.g., the various views according to the Office Action) before proceeding with construction and plotting of a graph that represents the corresponding topology. *Besaw '789* does not teach retrieval and plotting of topology information, relative to the same topology, at different times and, therefore does not teach the incremental plotting technique recited in Claim 1, in which only the portions of the topology information necessary for plotting requested portions of the topology are retrieved in response to a request. Hence, with Claim 1, the entire topology information is not retrieved in response to the first request for a graph. When a subsequent request is made for plotting a different portion of the same topology, not a different view of the same topology graph, than was previously displayed, then is the portion of the topology information necessary for plotting the newly requested portion of the topology retrieved from the source. Applicant respectfully requests careful reconsideration based on the foregoing remarks.

The Office Action contends, relative to a similar previous argument, that Applicant is arguing limitations that are not recited in the claims. Applicant disagrees. Granted, the term “incremental plotting” is not explicitly recited in Claim 1. However, the substance of the limitations recited in Claim 1, including their order, describes an

incremental plotting technique (as summarized above) in which only portions of topology information, as needed and on demand, are retrieved, converted, plotted and displayed.

Next, the second topology information is automatically retrieved from a data source in response to an interaction with a graphical image from the graph of the first portion of the topology, as recited in Claim 1. In contrast, *Besaw* '789 describes that if a new object has been received and if autolayout has not been requested, then the object is placed into a holding area on the screen, where a user can subsequently use a graphic input device to move the object from the holding area to the graph. This feature described in *Besaw* '789, which provides the ability for a user to manually move an object from one area of the display screen to the graph, is clearly different than retrieving information from a data source in response to an interaction with a graph. *Besaw* '789 does not describe retrieving new information in response to the user moving the object. Rather *Besaw* '789 merely describes allowing manual layout of an object to the graph. Applicant respectfully requests careful reconsideration based on the foregoing remarks.

Based at least on the foregoing distinctions between the disclosure of the *Besaw* references and Claim 1, the *Besaw* references do not substantiate an obviousness rejection of Claim 1.

Furthermore, in view of the Declaration described above, it is respectfully requested that *Besaw* '897 be removed as a prior art reference on which the rejection of Claim 1 relies. Since the remaining references of record do not teach, motivate or suggest the features of Claim 1, Claim 1 is not made obvious by any of the references of record. Therefore, Claim 1 is patentable over the references of record and withdrawal of the rejection of Claim 1 under 35 U.S.C. § 103(a) is requested.

Independent Claims 9, 20, 22, 24 and 25 recite features that are similar to the features discussed above in reference to Claim 1, regarding (1) retrieval of the second topology information after displaying the first portion of the topology, and (2) retrieving the second topology information in response to an interaction with the first portion of the topology. Therefore, the *Besaw* references also do not substantiate an obviousness rejection of Claims 9, 20, 22, 24 and 25. Furthermore, in view of the Declaration described above, it is respectfully requested that *Besaw* '897 be removed as a prior art reference on which the rejection of these claims relies. Withdrawal of the rejection of Claims 9, 20, 22, 24 and 25 under 35 U.S.C. § 103(a) is requested.

Each of dependent Claims 4, 5, 7, 8, 11-19, 21 and 23 depends, directly or indirectly, from one of Claims 1, 9, 20 and 22. Therefore, these dependent claims are patentable over the *Besaw* references for at least the same reasons as the independent claims from which these claims depend. Furthermore, in view of the Declaration described above, it is respectfully requested that *Besaw* '897 be removed as a prior art reference on which the rejection of these claims relies. Withdrawal of the rejection of Claims 4, 5, 7, 8, 11-19, 21 and 23 under 35 U.S.C. § 103(a) is requested.

(II) Dependent Claims 6 and 10

Claims 6 and 10 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Besaw* '789 in view of *Besaw* '897 and further in view of *Nielsen*. This rejection is traversed.

Each of dependent Claims 6 and 10 depends, directly or indirectly, from Claims 1 and 9, respectively. It is shown above that the *Besaw* references fail to teach, suggest or motivate several of the features recited in Claims 1 and 9. Therefore, the *Besaw* references, in combination with the *Nielsen* reference, do not substantiate an obviousness rejection of Claims 6 and 10 because the *Nielsen* reference does not cure the deficiencies in the *Besaw* references. Therefore, these dependent claims are patentable over the *Besaw* and *Nielsen* references for at least the same reasons as the independent claims from which these claims depend. Furthermore, in view of the Declaration described above, it is respectfully requested that *Besaw* '897 be removed as a prior art reference on which the rejection of these claims relies. Withdrawal of the rejection of Claims 6 and 10 under 35 U.S.C. § 103(a) is requested.

#### CONCLUSION

For at least the reasons indicated above, Applicants submit that all of the pending claims (1, 4-25 and 35) present patentable subject matter over the references of record, and are in condition for allowance. Therefore, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner has questions regarding this case, the Examiner is invited to contact Applicant's undersigned representative.

To the extent necessary, a petition for an extension of time under 37 C.F.R.  
§1.136 is hereby made. Please charge any shortages in fees due in connection with the  
filing of this paper, including extension of time fees, or credit any overages to Deposit  
Account No. 50-1302.

Respectfully Submitted,

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